REMARKS

Claim 3 is pending in this application. Claim 3 has been rejected. Claim 3 has been amended. Reconsideration is respectfully requested in light of the following remarks.

I. Rejection of Claims Under 35 U.S.C. 102(b)

Claim 3 has been rejected under 35 U.S.C. 102(b) as being anticipated by Benson et al. (1996). The Examiner suggests that this reference teaches a method for identifying an agent, NGF, that increases synaptic growth or plasticity after contacting hippocampal neurons and PC-12 test cells with NGF, by detecting increased activation/expression of VGF protein precursor. The Examiner further suggests that increased activation of the VGF precursor nucleic acid sequence during axonal outgrowth and dendritic maturation is detected by the increased presence of selectively and rapidly unregulated translated product through increased binding to VGF antibodies when compared to the activation of the VGF protein precursor in untreated cells. Applicant respectfully traverses this rejection.

As discussed in the previous reply dated December 18, 2008, Benson and Salton (1996) teach that VGF is a NGF-inducible protein whose expression correlates with PC12 cell neurite outgrowth. Also as discussed, Benson and Salton (1996) cite two papers by other authors that supposedly provide data showing that NGF is able to upregulate VGF in PC12 cells. However, nowhere does the paper by Benson and Salton (1996) provide actual data showing that contacting cells with NGF or any other agent selectively upregulates expression of VGF or any other

nucleic acid sequence of instant claim 3 as originally filed. Further, nowhere does this paper teach or suggest that contacting cells with any agent, including NGF, and then comparing the level of expression of nucleic acid sequences of VGF to the expression level in cells not contacted with NGF is indicative of activity of that agent to increases synaptic growth or plasticity of cells as claimed.

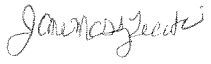
"No doctrine of patent law is better established than that a prior patent or other publication to be an anticipation must bear within its four corners adequate directions for the practice of the patent invalidated." Deway & Almay Chem. Co. v. Mimex Co., 124 F.2d 986, 989, 52 USPQ 138, 142 (2d Cir. 1942). What was settled decades ago is still the law today. See Amgen, 314 F.3d at 1354, 65 USPQ2d at 1416. (*"A claimed invention cannot be anticipated by a prior art reference if the allegedly anticipatory disclosure cited as prior art are not enabled."*) Further, based on the fact that Benson and Salton (1996) does not contain data demonstrating that contacting cells with any agent, including NGF, and then comparing the level of expression of nucleic acid sequences of VGF to the expression level in cells not contacted with NGF is indicative of activity of that agent to increases synaptic growth or plasticity of cells as claimed, shows that the reference fails to provide sufficient specificity to anticipate the instant claims. Thus, Benson and Salton (1996) fails to provide a single working embodiment that includes all of the features of the instant claims (Atofina v. Great Lakes Chem. Corp., 441 F.3d 991, 1000, 78 USPQ2d 1417, 1424 (Fed. Cir. 2006)). Accordingly, Benson and Salton (1996).

cannot anticipate the instant invention of claim 3 and withdrawal of this rejection is respectfully requested. However, in order to advance the prosecution and facilitate allowance of the claim, Applicant has amended claim 3 to remove reference to "VGF precursor protein". Withdrawal of this rejection is respectfully requested.

II. Conclusion

Applicant believes that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,



Jane Massey Licata
Registration No. 32,257

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Licata & Tyrrell P.C.
66 E. Main Street
Marlton, New Jersey 08053
(856) 810-1515
Email: JMLicata@licataandtyrrell.com